



American Public Works Association
(Washington Office)

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July 30, 2003

Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: Proceeding #02-278—Final Rule Implementing the Telephone Consumer Protection Act of 1991

To Whom It May Concern:

On behalf of the American Public Works Association (APWA), I am writing to urge the Federal Communications Commission (FCC) to withdraw and halt implementation of its recent regulations governing unsolicited fax advertisements, which were published in the *Federal Register* July 25, 2003 as a final rule implementing the Telephone Consumer Protection Act of 1991 (TCPA).

The FCC has decided, without the proper input from the business and association community, to modify the current law by doing away with the "established business relationship" provision pertaining to fax advertisements. This amendment will place onerous administrative and economic burdens on APWA, and the association community at large, by requiring "expressed written consent" from our own members prior to sending a fax advertisement. The new regulations impose a burdensome restriction of legitimate commercial activity between an association and its dues-paying membership.

The new FCC reading of the TCPA prohibits any person or entity from sending any fax that contains an unsolicited advertisement which is defined as "any material advertising the commercial availability or quality of any property, good, or services which is transmitted to any person without that person's prior express invitation or permission." As a result, the established business relationship is no longer sufficient to permit faxes to be transmitted, and we now face challenging administrative, legal, economic and record keeping requirements under the regulations. Our other choice of action is to stop using faxes as a means of communicating with our members, thus denying our members the opportunity to avail themselves of the services they are paying dues to receive!

The proposed changes, which are scheduled to go into effect on August 25, 2003, only 30 days from being published in the *Federal Register*, will create a significant economic and labor-intensive burden for APWA. The adjustment in the TCPA will require signed written consent to allow faxes to be sent that contain unsolicited advertisements. It would even require written consent for faxes pertaining to events such as annual membership meetings.

While these changes may be suitable for residential telephone numbers as the new Do Not Call registry provides, they are certainly not acceptable for association-to-member facsimile communications. APWA relies on faxes as a prime source of communications to meet the needs of our members.

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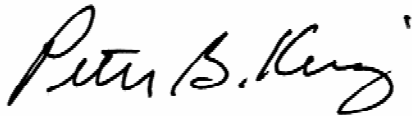
Peter B. King

With penalties reaching \$11,000 per unauthorized fax, this is a burden that few associations can financially endure. The proposed FCC changes are a prime example of an idea where the disadvantages and unintended consequences far outweigh the benefits.

APW A is an international educational and professional association of public agencies, private sector companies, and individuals dedicated to providing high quality public works goods and services. Originally chartered in 1937, APW A is the largest and oldest organization of its kind in the world, with headquarters in Kansas City, Missouri, an office in Washington, D.C., and 67 chapters throughout North America.

APW A provides a forum in which 27,000 member public works professionals can exchange ideas, improve professional competency, increase the performance of their agencies and companies, and bring important public works-related topics to public attention in local, state and federal arenas. Again, I urge the FCC to withdraw the regulations governing unsolicited fax advertisements. Thank you for noting our comments.

Sincerely,

A handwritten signature in black ink that reads "Peter B. King". The signature is written in a cursive, flowing style with a large initial "P" and a distinct "King" at the end.

**Peter B. King
Executive Director**